(1)

COURT FEE INDIA CANCELLED

IN THE HIGH COURT OF JUDICATURE AT BILASPUR [C.G.]

Writ Petition No.---4213---/05

PETITIONERS

1. Bhagat Ram S/o Chamaraa Aged- 58 years,
2. Jagat Ram S/o Chamaraa Aged- 55 years
3. Angad S/o Chamaraa, Aged- 60 years

All are by caste- Panika, occupation – farmer, Resident of Village- Navagaon, Tahsil and District- Raigarh [C.G.]

P.R. No. 4346/05 Presented by Shri Sanjay Rajput dated 25/8/05

VERSUS

RESPONDENTS :

1. Jaanaki Prasad Patel S/o Dol Narayan Patel, Aged- about 58 years, Occupation- Vakalat and cultivation, Caste- Aghariya, R/o Village- Navrang pur, Tah.& Distt.- Raigarh [C.G.]
2. Shashi Kumar S/o Jagat Ram Aged-22 years
3. Rameshwar Das S/o Bhagat Ram, Aged- 22 years

From 2 to 3 are by caste- Panika, occupation- farmer, Resident of Village- Nawagaon, Tahsil and District- Raigarh[C.G.]

4. Paharu Lal S/o Dhodhan Aged- 55 years, occupation- Up sarpanch, Gram Panchayat- Kulabaa, Tahsil and District Raigarh [C.G.]
5. State of Chhattisgarh Through- Collector, Raigarh [C.G.]

RECEIVED-COPY 23/8/05 CLERK to A.G. BILASPUR

(2)

(4)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

(30)

87-OH-IX

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.4213/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

9-9-2005

Mr. Sanjay Patel, counsel for the petitioners.

Mr. Sandeep Dubey, Govt. Advocate for the State/respondent No.5.

Heard.

By this writ petition under Article 227 of the Constitution of India, the petitioners have questioned the legality, propriety and correctness of order dated 23-6-2005 passed by the 4th Civil Judge, Class-II, Raigarh, in Civil Suit No.174-A/2003, whereby the application filed by the petitioners herein for amendment of the written statement and counter claim has been rejected.

Brief facts leading to filing of this writ petition are that respondent No.1 herein filed a civil suit against the petitioners herein and respondents No.2 to 4 herein for perpetual injunction and possession of which the petitioners herein filed written statement and counter claim. Later on, the petitioners herein filed an application for amendment in the written statement and counter claim to the effect that inadvertently, Khasra numbers have been typed out as 127 instead of 130, and 120 in place of 128, therefore, the petitioners herein, who are the defendants in the suit, be allowed to correct this mistake. However, learned trial Court rejected the application vide the impugned order mentioning therein that the proceedings have commenced, even the statement of Patwari has been recorded and by the amendment sough for, nature of the suit will be changed.

(31)

ST-OHRK

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....W.P.4213/.... **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioners submits that on account of typographical mistake, incorrect Khasra numbers have been typed out. By allowing the instant amendment, parties were not required to file any documents, the nature of suit is not going to be changed and also that proceedings of the suit will not be held up.

Having heard learned counsel for the petitioners, having perused the amendment application as also the order impugned, I am of the opinion that the order impugned is perverse, as the petitioners herein simply sought amendment to the effect that due to typographical mistake Khasra No.127 has been typed out in place of 130 and Khasra No.120 has been typed out in place of 128, and by correction of this mistake, the nature of suit is not going to be changed, therefore, the trial Court ought to have allowed the amendment application. As the order impugned is prima facie, perverse, I am of the opinion that issuing notice to respondent No.1 is going to further delay the proceedings. As such, the petition is allowed and the trial Court is directed to allow the petitioners to insert the amendment asked for. However, if respondent No.1 is still aggrieved by this order, then he will be at liberty to move this Court for modification of this order.

In view of this order, M.(W)P.No.3448/2005 and I.A.No.7696/2005 stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

SDES/2005-20,000